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CENTRAL INTELLIGENCE AGENCY
SOURCE METHOD EXEMPTION 3B2B
NAZI WAR CRIMES DISCLOSURE ACT
DATE 2006

OGC 65-0010

5 January 1966

MEMORANDUM FOR THE RECORD

SUBJECT: HEINE v. RAUS - Civil Suit, Federal District
Court, Baltimore

*Should be
30 Dec.
84.*

1. On 22 December 1964, a meeting was held with attorneys [] and [] at the latter's office. I was accompanied by [] and RAUS's case officer using the alias, []. [] was advised in advance that [] was not a true name. The reason for this was to preserve counsel's integrity and leave him free to pursue his client's interest in exposing Harigriet's identity and Agency affiliation.

2. All aspects of the case were discussed in detail. The attorneys wanted and received HEINE's opinion that they are "99 per cent sure" that HEINE is a KGB agent. They also wanted our estimate of whether plaintiff was serious about prosecuting this suit. [] believed that he is, and we are uncertain. Based upon these conclusions, the best tactic was decided to be institution of discovery by the defense at the time the answer is filed.

3. The consequences of requesting HEINE's deposition in Washington immediately are varied. If HEINE fails to respond, he may not proceed with his case. He may be discouraged by the difficulty and possible embarrassment, thereby electing to drop the suit. It will also permit the Agency to explore HEINE's bona fides. On the other hand, it certainly will provoke discovery by the plaintiff leading to the accurate aspects of the case, and defendant's essential weakness, i.e., that CIA will not substantiate his story.

4. It was realized that truth shall not be made the basis of defense. Alleging and failing to prove truth aggravates the damages under Maryland law. The charge that plaintiff is a KGB agent cannot be proved, even with classified information.

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5. The possibility of Government intervention to protect classified information by the Department of Justice was raised but later dismissed by the ED/CI for policy reasons.

6. Counsel was again informed that CIA would resist discovery and refuse to supply witnesses or documents to the defense. We would, however, supply further information on some named individuals, and ED is currently preparing the game. A.C. shall check on the citizenship of Keesel and verify his U.S. income in 1963.

7. RAUS will defend on several grounds, one of which is qualified privilege. His publication was, in this instance, in Estonian who have an interest to be protected and was in the Estonian language. RAUS must then show that he had reasonable grounds to believe that what he said was true. Here he may rely on overt evidence tending to show that CIA's story was suspect in a sinister manner. However, this is hardly convincing to a lay jury. Thus, he is also not forced to say that CIA told him "CIA" was an Agent and hope that the jury believed his word over CIA's story.

8. Other grounds of defense shall be the First Amendment, public policy, denial, the Statute of Limitations, and possibly absolute privilege or restriction. In view of the facts, it would appear that all possible grounds of defense have been exhausted.

[]
Office of General Counsel

cc: SR/CI
SR/O/AC

Door FICHE

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by J. J. [unclear]

On Tuesday 5 Jan of 1944 at 11:30 a.m. I was in the vicinity of [unclear] and
[unclear] my [unclear]. [unclear] [unclear] about a half an hour until the bus
departure time, I was walking around in the area and also looked around in
an area [unclear]. Inside I became aware of a man who kept moving around always in
my vicinity and kept staring at me [unclear] direction. When I got to
[unclear], he was standing near the [unclear]. He looked in my direction and hurried
out. When I entered the street he was about 25 feet away. As I
started to walk in his direction, he turned around and hurried around the
corner, disappearing into the [unclear] bus station. As I entered the bus
station, he had disappeared.

Description: About 5 feet 6 inches, 170 lbs. Age: early thirties, brown wavy
hair, square-jawed face with pronounced features. Wearing a black raincoat,
no hat.

Don [unclear]